

Risk Management Manual

M 72-01



Washington State Department of Transportation
Finance and Administration Service Center
Risk Management Office

Risk Management Manual

M 72-01



Washington State Department of Transportation



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Foreword

The Washington State Department of Transportation (WSDOT), Risk Management Office (RMO), has developed the Risk Management Manual to provide guidance for all personnel on risk management procedures and practices relative to risk management issues. These guidelines are necessary because WSDOT has significant potential for financial loss that can result from its operations relative to the building, maintaining and operating of highways, emergency airfields, facilities, marine fleet, rail activities, and the management and safety of its employees. This manual is also intended to aid in carrying out the Governor's Executive Order 01-05.

I am committed to the risk management program, and consider risk management essential and fundamental for all managers, supervisors and employees of WSDOT. I strongly encourage all employees to become knowledgeable of this manual's contents, apply its rules and procedures and integrate sound risk management philosophies into their daily activities, including day-to-day decision-making, planning, and implementing of all responsible tasks. Risk management considerations in the daily decision process will provide the benefits of loss control and risk mitigation expected by the legislature and the citizens of this state.

RICHARD YBARRA
Assistant Secretary,
Finance & Administration

Comments for addition, deletion, correction or other matters may be made by sending such comments by E-Mail (Bill Henselman or Sally McReynolds), or by memorandum to the Risk Management Office, MS 47418, Subject: Risk Management Manual M 72-01.

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Risk Management Defined

Risk management is the sum of conscious actions taken by departmental employees and/or legal counsel to avoid or mitigate losses, which might impair the operational capability or financial status of the WSDOT.

Risk Management Rules

To ensure WSDOT exposures to financial losses are appropriately mitigated and/or minimized:

The **RMO** has responsibility for directing and coordinating all risk functions. It shall be directly responsible for:

- Tort Claims Adjusting (general, vehicle, and marine passenger)
- Administering Maritime Job Injury Benefits
- Property Damage Recoveries
- Risk Analysis
- Tort Self-Insurance Management
- Attorney General Tort Defense Cost Management
- Tort Claim Reporting

The RMO will coordinate information and act in an advisory capacity with regard to litigating torts, purchasing insurance, obtaining certificates of insurance for requesters, reporting tort claim information, and analyzing risk aspects of contracts, leases, agreements or other legal documents.

The **Risk Manager** will head the RMO and report directly to the Assistant Secretary, Finance and Administration.

Each **Assistant Secretary, Director, and Regional Administrator** shall be responsible for conducting operations in accordance with departmental standards and statutory requirements. They will determine the degree of indemnification and/or insurance protection necessary in consultation with the Office of Attorney General/WSDOT Division or the WSDOT Risk Manager, and will report losses or claims in accordance with requirements in chapters 5 and 8 of this manual.

The **WSDOT Safety Office** shall be responsible for keeping abreast of Department activities, for advising proper safeguards to protect employees and the public, and for administering non-maritime employee injury benefits. The Safety Manager heading this office reports to the Assistant Secretary, Field Operations Support Service Center.

The **WSF Safety Office** shall be responsible for keeping abreast of maritime activities, and for advising proper safeguards to protect Washington State Ferries (WSF) employees and passengers. The **WSF Safety Officer** reports to the Director of Human Resources.

The **Office of Attorney General/WSDOT Division** shall be responsible for approving “contract” wording, and will ensure legal documents involving insurance, indemnity, or other risk provisions are coordinated with the Risk Manager where necessary.

All **WSDOT employees** shall be responsible for utilizing safe work practices, employing WSDOT adopted standards and procedures regarding public safety, and for providing a cooperative working environment for all fellow employees. Prompt reporting of unsafe conditions, discriminating or harassing behavior, and/or accidents is required to their immediate supervisor and/or the applicable safety office or Office of Equal Opportunity representative.

State of Washington Program

Chapter 43.19, Revised Code of Washington (RCW), established the general functions of the state's Risk Management Program in 1977. It later expanded on those functions in 1989 to the current seven principles, which address risk identification, evaluation, loss control, assumption, program flexibility, commercial insuring considerations, and planning. In 2002, responsibility for the Risk Management Program was transferred to the Office of Financial Management/Risk Management Division as outlined in RCW Chap. 43.41, et al.

Office of Financial Management/Risk Management Division (OFM/RMD)

The Office of Financial Management Director, who is functionally responsible for State risk management under RCW Chap. 43.41, appoints the manager to supervise the Risk Management Division and is charged with implementing the state's risk policy. OFM/RMD has responsibility for oversight of the state program of risk management and application of the following seven principles as identified in RCW Chap. 43.41:

- (1) To identify those liability and property risks which may have a significant economic impact on the state;
- (2) To evaluate risk in terms of the state's ability to fund potential loss rather than the ability of an individual agency to fund potential loss;
- (3) To eliminate or improve conditions and practices which contribute to loss whenever practical;
- (4) To assume risks to the maximum extent practical;
- (5) To provide flexibility within the state program to meet the unique requirements of any agency for insurance coverage or service;
- (6) To purchase commercial insurance when warranted; and
- (7) To develop plans for the management and protection of the revenues and assets of the state.

Office of Attorney General

Through its Assistant Attorney Generals (AAGs), the Office of Attorney General (AG) provides litigation defense and legal counsel to WSDOT through three different divisions:

- The **AG/Transportation and Public Construction Division** handles normal day-to-day operational matters including: marine, aviation, public transportation and highway contracting issues; construction claims; right-of-way acquisition issues; inverse condemnation claims; etc. ***WSDOT employee requests for AG defense under RCW 4.92.060, due to being named in lawsuits resulting from performance of their duties, are processed to this division for approval (see Chapter 4).***
- The **AG/Labor and Personnel Division** handles all employment issues, although civil rights tort suits may be handled by the AG/Torts Division depending on the division workloads.
- Under Chapter 4.92, RCW, the **AG/Torts Division** handles all tort lawsuits or high value tort claims (except employment torts as discussed above) made against WSDOT, including vehicle and general liability torts. Separate offices in Seattle, Spokane and Lacey provide the services under the Division Chief in the Lacey office.

WSDOT Risk Management Office

The head of the RMO, Finance and Administration, has been designated as the **WSDOT Risk Manager**. This office:

- As delegated from OFM/RMD, investigates/negotiates all non-lawsuit tort claims (excluding civil rights) filed against: a) WSDOT to include vehicle and general liability torts and marine Jones Act or general maritime law claims under procedures in Chapter 5 of this manual, and b) any state agency (except University of Washington) for vehicle liability torts;
- Is the contact point for and distributes tort claim forms to claimants against WSDOT;
- Recovers for tort damages by third parties to: a) WSDOT properties (highways, vehicles, buildings, etc.) under procedures in Chapter 8 of this manual; and b) any state agency vehicles (except University of Washington).
- Provides consultation and recommendations to agency personnel on commercial property or liability insurance acquisition, coverage, requirement or certificate of insurance issues;
- Monitors/administers the WSDOT budget subprogram U6 for Self-Insurance Liability Account (SILA) premiums for indentity and AG tort defense, and for WSF reimbursement to the SILA for these same costs;

- Provides WSDOT investigation and engineering technical support to the Washington State Patrol's Major Accident Investigation Team (MAIT);
- Coordinates tort lawsuit defense strategies between WSDOT and the AG;
- Provides/coordinates risk management policies, procedures and training for WSDOT personnel;
- Determines the need and leadership for risk assessment studies and loss control measures through loss evaluation and analysis; and
- Represents WSDOT on the state's Risk Management Advisory Committee and its subcommittees.

WSDOT Safety Office

WSDOT Safety Office. The head of the Safety Office, Field Operations Support Service Center, has been designated as the **WSDOT Safety Manager** and functions as specified in the WSDOT Safety Manual, M 75-01. This office:

- Develops and administers the Department-wide program of loss control covering employee occupational safety and health, vehicular and equipment accident prevention and occupational insurance in accordance with the applicable safety, health, and insurance laws and regulations.

WSF Division Safety Systems Manager. This Manager functions as specified in the Safety Management System Human Resources, Safety and Training Manual. This Manager:

- Acts as the principal management official with overall responsibility for internal and external coordination, integration, and effective execution of WSF's safety, training, emergency management/security and environmental protection programs and initiatives.

WSDOT Employees

All WSDOT employees shall be responsible for utilizing safe work practices, employing WSDOT adopted standards and procedures regarding public safety and for providing a cooperative working environment for all fellow employees. Prompt reporting of certain conditions/incidents will be made to their immediate supervisor or as otherwise provided for as follows:

- Unsafe conditions per the WSDOT Safety Manual, M 75-01 or the WSF Safety Management System Human Resources, Safety and Training Manual.

- Discriminating, harassing or failure to accommodate disability conditions behavior per the Equal Opportunity Desk Manual, M 04-15;
- On-the-job vehicle incidents/accidents per the WSDOT Safety Manual, M 75-01, and chapter 5 of this manual; and
- Incidents/accidents on or at WSDOT properties/facilities that may give rise to a claim against the state per chapter 5 of this manual.

Tort Liabilities

In operating over 7,000 miles of state highways, a vast ferries fleet of over 29 vessels and 20 ports of call, aviation and railroad activities, a vast fleet of WSDOT owned vehicles and in employing over 6,000 personnel, WSDOT has significant tort exposures in its daily operations. **Tort liability results when a wrongful act is committed by one party that causes injury/damage to another party and that party is entitled to compensation for the injury/damage. Tort law requires negligence for a tort to exist, and that the negligence results in a failure to conform to a standard of care imposed as a duty to another (as established by statute or tort case law).** Examples of standard of care/duty issues are shown below:

- Relative to its state highways, WSDOT is obligated to exercise ordinary care in the construction, repair, and maintenance of the highways and to keep them reasonably safe for travel. When deficient highway conditions (potholes, knocked down stop signs, etc.) become or should have become known, the Department has a reasonable time (depends on extent of danger, time of day, etc.) to respond to and repair or warn of the condition to prevent tort liability.
- WSDOT maintains and operates a vast fleet of vehicles in its daily operations. The normal rules of the road in Chapter 46.61 RCW generally apply in their operation. However, vehicles obviously and actually engaged in work upon a highway and displaying proper flashing lights have the legal right of way. The failure to follow the rules of the road or to properly utilize applicable warning lights may result in liability exposure.
- WSF, as a common carrier of millions of passengers, must exercise an exceptionally high degree of care in its ferry operations in order to prevent injury or damage to its passengers.
- As a general rule, state agencies may not be sued by their employees for tortious conduct during an employee's job performance, and are afforded on-the-job injury protections through Labor and Industries (L&I) insurance provisions. However, a state agency may be sued by its employees for failing to meet the appropriate standards relative to preventing discrimination or harassment under civil rights laws or the Americans with Disabilities Act.
- Maritime employees of WSF are not subject to L&I provisions, but have the right to sue WSF under maritime law/Jones Act for on-the-job injury general damages stemming from WSF negligence and/or unseaworthiness.

Employee Safety

The Department's Safety Office and its Safety Manager are located under Engineering and Regional Operations. That office provides guidance and assistance to the Region Safety Officers and the WSF Division Safety Systems Manager, as well as general oversight in several departmental safety programs/areas.

Employee Injuries

Because of the nature of the business functions of the Department, many of the functional day-to-day tasks of employees result in significant exposure to physical injury if the tasks are not properly performed. Employees must follow established work rules and policies, use appropriate personal protective equipment when necessary, report known hazards in the workplace, and exercise good judgment and a positive safety attitude while carrying out their assigned duties. Lost time as the result of physical injuries on the job is not only traumatic to the employee, but is also a costly exposure to the Department. General management of the injury cases handled under Labor and Industry compensation is provided by the Safety Office in Olympia, and for WSF seamen by the WSF Human Resources Office in conjunction with the department's Risk Management Office.

More specific guidance on departmental safety policies, rules, etc. may be found in the WSDOT Safety Manual (M75-01), the WSF Safety Management System Human Resources, Safety and Training Manual, or Region supplemental publications.

Non-Tort Litigation

The Department is exposed to financial loss in many other areas outside of tort liability and employee safety areas. These potential litigation areas predominantly include contracts and agreements where we acquire goods or services from others or provide those items (mostly services) to others and may include such things as right-of-way acquisition, environmental mitigation, hazardous materials spills, lease or rental agreements, etc.

Limiting Liability Exposures

Reducing Tort Liability. There are numerous ways WSDOT employees can reduce tort liability exposures. Some suggested tips for reducing or limiting tort liability include; but are not limited to, the following tips.

- Define duties, responsibilities and authority of staff;
- Maintain adequate records to provide facts about existing conditions (e.g. road sign logs);
- Provide for regular inspections of highway facilities and traffic control devices and when deficient conditions are determined to be inherently dangerous, they need proper engineering disposition which may include signing and/or speed reductions;
- Ensure adequate procedures for handling road complaints and reports;

- Keep good maintenance records (including problems detected, repairs made and materials used);
- Keep designs consistent with current standards and ensure that deviations from standards are engineering based and documented;
- Ensure that construction is consistent with design plans and if construction deviates from design plans for whatever reason, ensure that the change is dealt with from an engineering perspective and properly documented;
- Document traffic control activities;
- Document significant accident locations as close to incidents as possible (parties, road conditions, applicable nearby regulatory/advisory signing, and take pictures if possible);
- Ensure employees are appropriately trained regarding employee safety, employee civil rights issues, and duties to the public;
- When driving state vehicles, employees should apply defensive driving techniques to include: pay full attention to your vehicle, provide appropriate spacing from the vehicle ahead, and be aware of the total traffic environment around them;
- Before using vehicles in maintenance/construction operations, drivers must perform the appropriate vehicle inspection;

Assessing Risk Exposures

Objective. The objective of WSDOT's risk management program is the preservation of its investments in personnel, property and other resources. From a risk management perspective, assets can be protected by:

- reducing exposure to loss,
- resolving claims at the lowest possible equitable cost to the agency, and
- establishing effective methods to secure funding to pay for incurred losses.

Methodologies. As the cost of accidental loss continues to escalate, risk assessments become increasingly more valuable in helping to reduce the cost of claims and allowing optimal use of available resources. They should be used to identify potential losses (e.g. liability, property, employee or security losses) and to develop recommendations to reduce or eliminate the cause of the losses/potential losses. Such assessments may be broad based or loss specific, formal or informal, and lead by Risk Management personnel, or any level of staff personnel within the Department.

Responsibilities. All WSDOT employees need to be aware that identification of potential risk is the foundation on which an effective loss control program is built. Finding and evaluating hidden risk exposures requires a thorough knowledge of departmental operations, an expertise that exists within each employee's area of job responsibility. Therefore, it behooves employees who become aware of operational methods or procedures which may be creating or contributing to potential losses to bring those issues to the attention of the WSDOT Risk Manager for further examination or assessment.

Further, as loss exposures become evident through the Risk Management Office's handling of the various tort claims against WSDOT, such exposures must be identified to responsible departmental personnel for implementation of appropriate loss control measures.

Where it becomes evident to the WSDOT Risk Manager that a potential risk exposure warrants a formal assessment team, the request for such an assessment will be coordinated with the Assistant Secretary, Engineering and Regional Operations Division for implementation.

Tort Lawsuits

Tort claimants under Chapter 4.92, RCW, may bring an action against the state after 60 days have lapsed from the filing of the claim with its OFM/RMD. The civil action must be brought in the applicable county's (normally where the incident occurred or Thurston County) superior court. Most such civil actions brought do not normally name the employee involved in the incident as a defendant. The possible exception being state vehicle accidents or personal vehicle accidents being used for state business.

If an employee is named in a lawsuit and served a summons and complaint in a civil action, they should **immediately** contact the WSDOT RMO (800-737-0615 or 360-704-6355) in order to request defense in that action under RCW 4.92.060. A Request for Defense form will be sent to the employee. The completed Request for Defense form should immediately be forwarded to the WSDOT RMO in Olympia (POB/MS 47418), who will process it through the Secretary for approval and processing to the AG for approval as appropriate under Chapter 4.92 RCW.

Small Claims

Chapter 12.40 (Small Claims), RCW, does not specifically prohibit a claimant from bringing a small claim (not exceeding \$2,500) action against an employee (allegedly causing third party damages in the performance of their duties for WSDOT) in county District Court. However, it is generally interpreted by the courts that in such an action the employee is an agent of and acting for the State, and therefore the action must be brought in the county's Superior Court.

If an employee is named as a defendant and served a summons and complaint in a small claims action for damages caused by alleged negligence in the official performance of their duties, they should **immediately** contact the WSDOT RMO (800-737-0615 or 360-704-6355). This office will assist the employee in getting the small claim action dismissed from District Court, or if unsuccessful, in preparing for the defense of the claim and possible subsequent indemnification (under RCW 4.92.075) of any judgment action taken by the court.

Purpose

This chapter provides guidance on reporting and processing tort claims/incidents, which may be or have been asserted against the WSDOT. These provisions are applicable to all incidents which may give rise to a claim being asserted against WSDOT including general acts causing injury or damages to others, motor vehicle accidents, acts in violation of a governmental rule and pollution incidents. Employee on-the-job injuries must be reported/administered in accordance with the WSDOT Safety Manual, M 75-01, the WSF Safety Management System Human Resources, Safety and Training Manual, and/or the Human Resources Desk Manual, M 3009.

Rules

- I. Each Regional Administrator and the Directors for the WSF, Aviation and Rail Divisions are to designate in writing (with a copy to the RMO) a person, by position, who will provide liaison between their organization and the RMO on tort claim and/or risk management matters to ensure clear communications on these matters.
- II. To minimize potential liability, supervisory employees must not discuss claim or potential claim matters with persons other than higher management, state claim investigators, law enforcement persons or a member of the AG. Non-supervisory employees should consult with the RMO or the AG if they are requested to provide an interview or information to a claimant or a claimant's legal representative.
- III. Potential claimants in vehicle accidents (along with an exchange of vehicle/driver and insurance information) and other claimants should be provided a copy of the WSDOT Claims Information Brochure or be referred to the RMO to obtain a tort claim form for filing under RCW 4.92.100.
- IV. Accidents or incidents meeting any of the criteria in this paragraph must be promptly reported, usually no later than the next workday by telephone (360-704-6355) or fax (360-704-6367), by the employee or their supervisor to the RMO or the Assistant Secretary for Finance and Administration. Any WSDOT employees involved in such accidents/incidents (or their supervisors) follow the procedures provided in the procedures section below. The criteria includes: potential significant media coverage; multiple parties with significant damages; very serious injuries and/or death; or state vehicle involvement causing injury, damaging any vehicle in excess of \$2,000 or causing the vehicle of a potential claimant to be inoperable. Additionally, for vehicle accidents (state vehicle, rented vehicle or personal vehicle) while on official state business, the employee is to complete form SF 137, Vehicle Accident Report and forward copies of it within two working days to: OFM/RMD and the WSDOT Region or HQ Safety Office.

- V. WSDOT approval of tort lawsuit out-of-court settlements or Tort Claim Release and Certification of Tort Claim Settlement documents will be as provided in the WSDOT Delegation of Authority document.

References

1. Chapter 4.92 (Actions Against the State), Revised Code of Washington (RCW)
2. RCW 46.52.030 (Accident Reports)
3. Office of Financial Management State Administrative and Accounting Manual (SAAM), Chapter 70.40 (Motor Vehicle Management and Use)
4. M 75-01, WSDOT Safety Manual
5. WSF Safety Management System Human Resources, Safety and Training Manual
6. Chapter 47.60 (Puget Sound Ferry and Toll Bridge System), RCW

Procedures

Procedures A and B give guidance for situations involving a motor vehicle accident for land transportation; C for non-vehicle incidents (excluding ferries); D for injuries or illness of maritime employees; and E for incidents involving ferry passengers.

Action by

Action

A. Procedures Following a Motor Vehicle collision Accident Involving Bodily Injury or Property Damage

Employee

1. Regardless of fault, give assistance to injured party within your capability and/or seek assistance.
2. Make certain a law enforcement agency is contacted and responds for purposes of impartial investigation, and request that drug/alcohol testing be completed if the other party appears under the influence or impaired.
3. Acquire information from the other party for completing form SF 136, Vehicle Accident Check List, Figure 5b (in glove box).
4. Provide other party appropriate vehicle and driver information. Advise other party the State is self-insured and provide them a Claims Information Brochure, Figure 5c (in glove box), and/or the RMO phone number (800-737-0615 or 360-704-6355) for them to obtain a claim form.

5. Do not give opinions or make representations about liability, causation, responsibility or compensation. Be polite and helpful as appropriate, but inform those involved that the RMO handles liability decisions. **If the other party has at least some of the fault for the accident, see procedure B. below.**
6. Immediately notify your supervisor of the nature and extent of the accident. Take photos of the accident and vehicles if at all possible.
7. Promptly complete form SF 137, Vehicle Accident Report, per Rule IV and provide it to your supervisor.
8. If the accident involved any injury, death or damage exceeding \$700 to the property of any one person and there was not a police investigation, the driver must, within four days, complete a State of Washington Police Traffic Collision Report and forward it to the incorporated city or town police chief, county sheriff, or state patrol (as applicable) per RCW 46.52.030 and WAC 446-85-005 and 010.

“Supervisor”

9. Ensure prompt reporting has been made to the RMO (800-737-0615 or 360-704-6355 or Fax 360-704-6367) per Rule IV, this chapter.
10. Review form SF 137 for accuracy/completeness. Agree or disagree that employee was on duty at time of accident, sign and forward copies of the form to OFM/RMD, WSDOT/ RMO and Region/HQ Safety Officer within two workdays.

Risk Management Office

11. Receive form SF 137, Vehicle Accident Report.
12. Receive claim form and acknowledge receipt to claimant or counsel, or return claim form to claimant if it's defective in: lack of proper filing with OFM/RMD; location or other information; or it is illegible.
13. Seek accident facts from the Region/ Division as necessary.

- | | |
|-------------------------------|---|
| Region/Division | 14. Assist the RMO in investigation of the claim as requested. |
| Risk Management Office | <p>15. Complete the tort claim investigation with assistance of the region/division to determine/ assess liability. Provide good faith effort to resolve the claim within 60 days.</p> <p>a. If determination is that the state has no liability, promptly deny the claim to the claimant with reasonable explanation. Close the claim after 30 days from denial.</p> <p>b. If determination is that the state has partial or total liability negotiate appropriate settlement with the claimant, prepare settlement payment request form for signature and closing by the Claims Manager or the Risk Manager, and forward the payment request to OFM/RMD for their final approval and processing. Comply with OFM/RMD requests for further information, as applicable.</p> |

B. Procedures Following a Motor Vehicle Accident Damaging a State Owned Vehicle.

Also see Rule IV for preliminary (telephone) reporting.

- | | |
|-------------------------------|--|
| Employee/Supervisor | <p>1. If the incident involves only the state vehicle, complete form SF 137, Vehicle Accident Report (an electronic form), and forward <u>copies</u> of it to OFM/RMD, WSDOT/RMO and the appropriate WSDOT Safety Officer.</p> <p>2. If the incident involves collision with another party that may have at least some of the fault, complete the form SF 137 as in Action step A.7. above and see Chapter 8, Procedure D, this manual. Also, take photos of the accident and vehicles if at all possible.</p> |
| Risk Management Office | 3. Handle claim as in Procedure A., Steps A.11.- A.15. above or Chapter 8, Procedure D, this manual, as applicable. |

**C. Procedures Following Non-Vehicle Incidents
(Excluding Ferries) Also see Rule IV for
preliminary (telephone) reporting.**

Employee

1. If an incident is observed which may give rise to a claim against the state, complete a memorandum to the RMO (with a cc to the applicable Safety Office) as in Figure 5a, this chapter. This memorandum should:
 - a. Be prompt, objective, factual and without assumptions or conclusions as to fault, cause or responsibility; and
 - b. Include photos of the area of the incident (as proximate to the time of the incident as possible) which may assist in determination of liability; e.g. road condition, signing, striping, etc.

Risk Management Office

2. For each incident reported:
 - a. Perform investigation or request Region assistance as required.
 - b. Administer adjudication as permitted and required.
 - c. Coordinate with OFM/RMD as required.
 - d. Advise appropriate WSDOT executive of major developments involving items of interest; e.g. the receipt of large claims or lawsuits.
3. When a tort claim has been filed:
 - a. Receive claim form and acknowledge receipt to claimant or counsel, or return claim form to claimant if it's defective in: lack of proper filing with OFM/RMD; location or other information; or it is illegible.
 - b. Provide copy of claim to Region/Division liaison with attachments (when applicable) for their assistance in gathering information relative to the nature of the claim.

Region/Division

- c. Gather information as requested and provide prompt response to the RMO.

Risk Management Office

- d. Proceed with investigation and adjudication of the claim as in Procedure A., step 15. above.

D. Procedures Following Maritime Employee Injury Incident or Illness.

Also see Rule IV for preliminary (telephone) reporting.

Employee

1. Report all injuries or illnesses that occur while in service of the vessel to immediate Supervisor. If medical attention is necessary, request WSDOT Form 670-039, 'Employees Request for Examination and/or Treatment' (also known as **Master Certificate**) from the Master or Chief Engineer.

Captain/ Chief Engineer

2. Complete the Master Certificate. Keep one copy with the vessel and advise employee to present the form to the attending physician.
3. Make appropriate entry in the ship's log.

Immediate Supervisor

4. Complete WSDOT Form 750-013, 'Supervisor's Report of Employee Personal Injury'. Forward the form to the WSF Payroll Office, who determines claim number and forwards it to the RMO.

Employee/Dispatch

5. As an employee with more than five days time loss cannot return to work without approval from the physician, the employee must obtain such approval and provide it to dispatch who will verify that such approval has been obtained in all these instances.

Risk Management Office

6. Upon receipt of the Supervisor's Report of Employee Personal Injury, conduct appropriate investigation to ascertain the facts and possible liability issues.

7. If investigation determines:
 - a. Employee is entitled to “maintenance and cure” and/or unearned wages: coordinate with WSF Payroll Office as necessary; co-authorize payments of medical bills; and advise the Payroll Office when cessation of maintenance is appropriate.
 - b. If there is no basis found for payment to the employee or others, promptly deny the claim with appropriate reasons to the claimant and advise the WSF Payroll Office.
 - c. In the event of litigation, assist the AG as required.

E. Procedures Following Terminal/Ferry Passenger Incidents

WSF Employee

1. Complete a legibly printed DOT Form 690-010, ‘Incident Report’, to report: injury to Galley personnel or passengers; damage to a passenger vehicle; or incidents involving two passenger vehicles (even though the crew may not have been involved). Provide the completed form to the supervising officer.
2. Advise passenger the Incident Report is not a claim form. Provide passenger a Claims Brochure, which tells them how to make a claim.
3. Do not give opinions or make representations about liability, causation, responsibility or compensation. Be polite and helpful as appropriate, but inform those involved that liability decisions are handled by the RMO.

WSF Vessel Supervising

4. Receive Incident Report. Enter incident into Ship’s Officer Log. File one copy of the report and send remaining copies to WSF Safety Office.

WSF Safety Office

5. Receive Incident Report. Enter incident data into the WSF claims data base and file the report.

Risk Management Office

6. When tort claim is asserted:
 - a. Send claimant form SF 210, 'Standard Tort Claim Form'.
 - b. Receive claim form and acknowledge receipt to claimant or counsel, or return claim form to claimant if it's defective in: lack of proper filing with OFM/RMD; location or other information; or it is illegible.
 - c. Proceed with investigation and adjudication of the claim as in Procedure A., step 15. above.

Figures

- 5a. Incident Memorandum Reporting Sample
- 5b. Claims Brochure

Figure 5a
Non-Vehicle Incident Memorandum Reporting Sample

Date: _____	
From: _____	
Phone: _____	Subject: Non-Vehicle Incident Report
To: Risk Management Office (MS 47418)	

1. Accident/Incident Information

Date _____ Time _____ Exact Location _____

Individuals Involved

Name(s): _____	Address(es): _____
_____	_____
_____	_____
_____	_____
_____	_____

Accident/Incident Description: _____

Injuries/Damages Description: _____

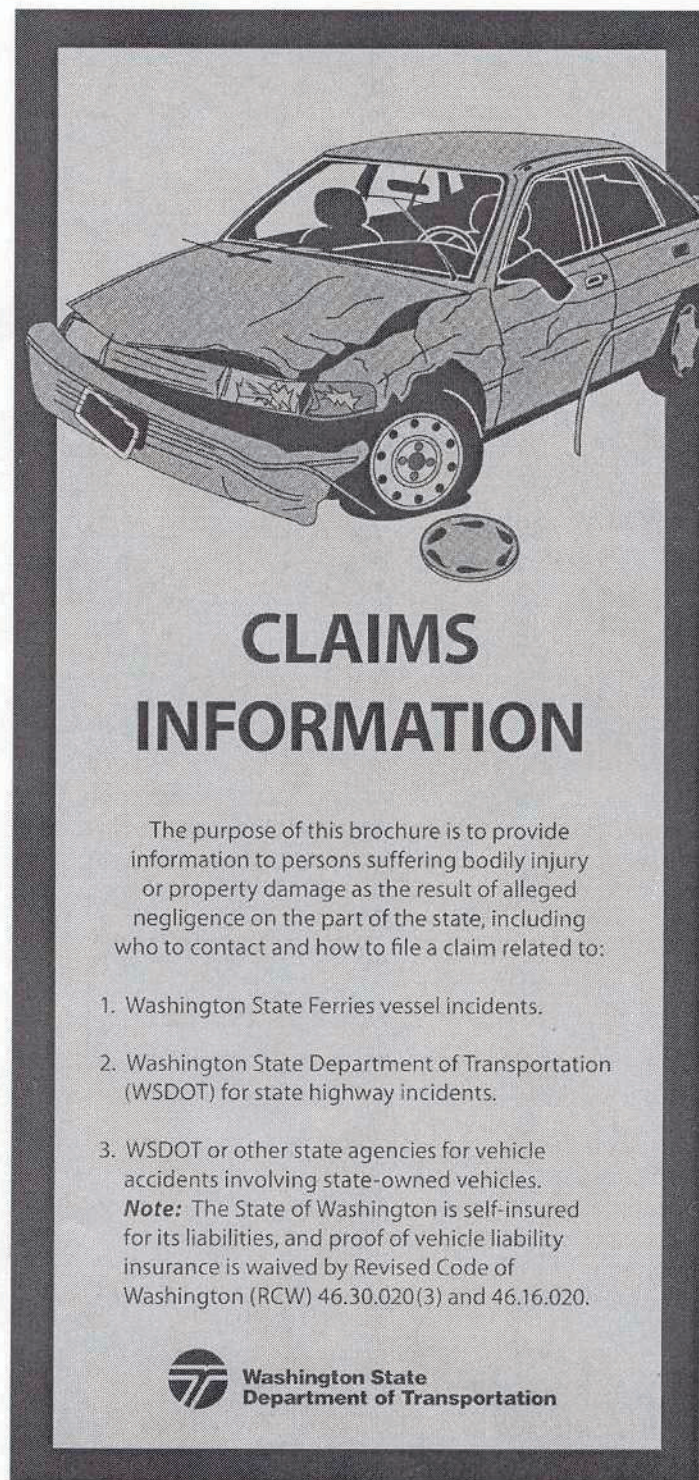
2. Photos were/were not (correct response circled) taken and are attached if applicable.

3. Witnesses observing or aware of this incident include:

Name(s) _____	Address(es) _____
_____	_____
_____	_____
_____	_____

cc: Region/Division Safety Office

Figure 5b
Claims Brochure



Insurance

It is the State's policy, as expressed in Chapter 43.19, RCW, to assume risks to the maximum extent possible, but to purchase commercial insurance when, among other reasons: the size and nature of potential loss make it in the state's best interest; coverage is cost effective; or it's required by a fiduciary arrangement. WSDOT's risk exposures are financed by various combinations of self-assumption, self-insurance, and commercial insurance as discussed below. Considerations for effecting insurance coverage and other insurance issues are also discussed. Questions or requests for assistance on insuring issues should be addressed to the WSDOT Risk Manager. Also, OFM/RMD provides some insurance guidance in their Internet publication "Contracts: Transferring and Financing Risk" at this Internet site:

<http://www.ofm.wa.gov/rmd/contrman.htm/riskcont.doc>

Tort Liability

General (excluding aviation and marine) and vehicle tort liability. For general tort (excluding aviation and marine) and vehicle tort liability, WSDOT participates in the State's Self-Insurance Liability Account (SILA) by paying annual premiums into the account (authorized under Chapter 4.92, RCW). The account is administered by OFM/RMD. Premiums are determined by an actuarial study, which considers a combination of risk exposure (full-time equivalents) and experience (last five years' tort losses paid and case reserves for those unpaid) for each agency. The fund currently pays the first \$15 million for each occurrence without any deductible, and commercial excess coverage pays amounts over \$15 million and up to \$50 million per occurrence. Any liability over the combined \$50 million per occurrence is payable by the agency.

Coverage by the SILA is provided for tort claims arising out of incidents resulting in bodily injury, personal injury or property damage to third parties including: general liability (for incidents in a contract construction zone, see that section below); vehicle liability; public officials liability; liquor liability; violations of civil rights; and sudden and accidental pollution. Coverage by SILA is excluded for: Ferries Division marine hull and protection and indemnity exposures relative to vessel operations; marine tort exposures other than Ferries Division for boats longer than 26 feet or greater than 50 horsepower; Aviation Division exposures; employee fidelity; damage to state owned facilities and property; foreign liability; and injuries to employees under worker's compensation, U.S. Longshore & Harborworker's or Jones Act.

Washington State Ferries Division tort liability. This Division is commercially insured for its tort liability exposures up to \$200 million per occurrence subject to deductible provisions. The deductible is a combined hull and protection and indemnity deductible of \$1 million per vessel each accident or occurrence, except \$250,000 on passenger only vessels, and \$3.5 million in the aggregate for all losses during the annual policy period (subject to a \$25,000 each occurrence, maintenance deductible after exhaustion of the aggregate). Tort claim payments made by OFM/RMD out of the SILA are billed monthly to ferries for reimbursement to that account, and appropriations for these reimbursements from marine operating funds are provided in program U6.

Marine tort exposures other than Ferries Division for boats longer than 26 feet or greater than 50 horsepower. These marine exposures (mostly materials lab, bridge and maintenance offices) are not covered by SILA. Therefore, any tort incidents from these marine operations resulting in tort payments would be charged against WSDOT programs conducting such operations. Commercial insurance liability coverage for these operations is available through a state master policy. To obtain such insurance coverage, contact the WSDOT Risk Manager.

WSDOT Aviation Division tort liability. The Aviation Division is commercially insured for tort liability exposures up to \$25 million combined single limit per occurrence. The covered exposures include airport premises and operations liability for bodily injury and property damage (arising out of airport-operations, aircraft products/completed operations, contractual liability, construction-demolition and hangar keepers' liability) and aircraft liability (legal liability as respects owned and non-owned aircraft and all risk flight and ground hull cover as respects non-owned aircraft). There is a \$1 million per occurrence/\$3 million annual aggregate deductible to the coverage, which is self-assumed and payable out of Aviation Division operational funds.

Highway construction zone tort liability. The 2004 Standard Specifications for Road, Bridge, and Municipal Construction, as amended on January 5, 2004 by amendment 07.AP1, section 1-07.18, contain the liability insurance requirements for construction contracts. The contractor must provide: Owners and Contractors Protective (OCP) Insurance with limits of \$3 million per occurrence/aggregate using a WSDOT Amendatory Endorsement to meet WSDOT needs; Commercial General Liability (CGL) Insurance with limits of \$3 million per occurrence/million aggregate; and Commercial Automobile Liability Insurance for all owned and non-owned vehicles with a combined single limit of \$1 million per occurrence. The OCP coverage requires WSDOT to be a named insured for the specific project and is to also provide coverage for WSDOT acts or omissions in the construction area. Also, indemnification and hold harmless provisions are in section 1-07.14 of the Specifications. Increases/decreases to these coverage limits may be appropriate in accordance with General Special Provisions: 07185.FR1 (OCP increased limits); 07186.GR1 (Builders Risk Insurance); 07187.GR1 (OCP coverage deletion and adding state as additional insured on the CGL); and 07182.FR1, 07183.GR1 and 07184.GR1 (contracts involving railroads). Consultation with the WSDOT Risk Manager is normally appropriate in these instances.

Tort liability in other contracts/agreements. Generally, all other WSDOT contracts or agreements contain either liability insurance (normally with \$1 million per occurrence/\$2 million aggregate limits) and/or indemnification/hold harmless provisions. Each should be considered in their own right as appropriate.

Certificates of Insurance for Tort Liability. Occasionally, other state or local government agencies, public school districts, landlords, railroads, equipment rental organizations, etc. require WSDOT to show evidence that it is self-insured for its tort liabilities prior to executing an agreement or contract with WSDOT. When WSDOT organizations are faced with providing such evidence, an e-mail request should be provided to the WSDOT Risk Manager which includes the: WSDOT organization and contact person, agreement/contract purpose, inclusive dates and location of insured activity, extent of insurance requirement (e.g. \$1 million per occurrence/\$2 million aggregate), and address, fax number and contact person of the insurance requiring entity.

Property Insurance

WSF Vessels and Terminals. Hull and machinery agreed upon values totaled \$737 million (in 2003) with insurance limits of \$250 million each vessel, each accident, to include both property damage and liability coverage with the combined \$1 million per vessel accident or occurrence/\$3.5 million annual deductible provisions (except passenger only vessels which are \$250,000 per accident or occurrence). If the annual deductible limit is reached, each accident or occurrence is subject to an additional \$25,000 maintenance deductible. Docks, quays, and shore side facilities values at 2003 totaled \$338 million with insurance limits of \$50 million any one location all risk coverage (including earthquake and tidal wave) with deductible provisions of \$1 million each and every occurrence.

Electronic Data Processing (EDP) Equipment. WSDOT participates with other state agencies in the State's all risk Master Commercial Property insurance policy. WSDOT reported \$29.1 million in Office of Information Technology (IT) Management Information System inventoried equipment in 2003 replacement value. The state as a whole has insurance limits of \$200 million per occurrence, and a \$200 million annual aggregate limit on the perils of earthquake and flood. WSDOT maintains a \$50,000 per occurrence deductible. Any loss of EDP hardware is to be reported to the IT Financial Manager for reporting to OFM/RMD.

Other Property Insurance. Other WSDOT property insured through the State's all risk Master Commercial Property insurance policy includes: Northwest Region Traffic Management Systems Center non-MIS EDP and other miscellaneous equipment and software; Geographic Services aerial photography equipment; and miscellaneous properties replaced/repared with federal emergency funds. All such properties are subject to the same coverage limits and deductible provisions included in the EDP coverage discussion above.

Other Insurance

Rental Car Liability and Property Insurance. Rental cars obtained through the State's contract (currently in fiscal year 2004 with Budget) automatically include both liability (up to \$350,000) and collision damage provisions. When vehicles are rented under this contract, employees should decline any further liability or collision coverage offered. When renting vehicles other than through this state contract, see discussion in the following paragraph.

Rented Equipment Liability and Property Insurance. When renting vehicles or other equipment from any providers through other than the state contract with Budget discussed above, neither liability nor damages to the rented property itself are provided by the rental agency without an additional charge. Liability protection for the state's use of this equipment is afforded by the SILA (see discussion above under General and Vehicle Tort Liability), and if rental agencies require a certificate of insurance for tort liability you should contact the WSDOT Risk Manager. However, coverage for property damage to the rented equipment itself is not provided by the state, and such damages are assumed by the WSDOT renting organization. When the financial exposure of damage to such equipment may be significant, using organizations should seriously consider obtaining property damage insurance coverage from the rental agency. If it is not available through the renting agency, contact the WSDOT Risk Manager for possible coverage through the state's master property insurance policy with additional premium to be paid by the using organization.

Non-Scheduled Aviation Accidental Death and Dismemberment Insurance. WSDOT participates with other state agencies in non-scheduled aviation accidental death and dismemberment insurance. Coverage is afforded all active named pilots or crew members of the Aviation Division and the Photogrammetry Unit and all other active departmental employees (excluding ferries vessel employees) when on departmental business and while: a) riding as a passenger, observer, pilot, operator or member of the crew in owned, leased or loaned WSDOT aircraft, or b) riding as a passenger or operator in any land conveyance traveling directly to/from an airport immediately before departure/after arrival of a WSDOT owned, leased or loaned aircraft. Such coverage is \$95,000 per accidental death and dismemberment up to an aggregate limit of \$800,000 per accident.

Employee Fidelity Bond. WSDOT also participates with other state agencies in the Public Employees Blanket Bond, including Faithful Performance of Duty. This bond affords WSDOT coverage for losses incurred through any fraudulent or dishonest act or acts committed by any of its employees, acting alone or in collusion with others. Such coverage is subject to policy exclusions and limitations of \$5 million coverage limit per year with a \$100,000 per occurrence deductible for: public employee dishonesty, including faithful performance; forgery or alteration; theft, disappearance or destruction; robbery and safe burglary; computer fraud, including wire funds transfer fraud. All such losses must immediately upon discovery be reported to the WSDOT Risk Manager.

Employee Required Automobile Liability Insurance

Personal Vehicle Used on State Business. Whenever state employees use their privately owned vehicles on state business, they are required to have vehicle liability insurance by Office of Financial Management travel rules (State Administrative and Accounting Manual, section 70.40.45) and by WSDOT Accounting Manual M 13-82, Paragraph 10-5.2.1. Both sources specify that the employee be properly licensed and insured for liability in compliance with the State's insurance laws. In the event of an accident, the employee's liability insurance provides first primary coverage prior to any possible secondary coverage under the provisions of the first paragraph of this section. Employees are responsible to ensure their liability coverage applies when using their vehicle for business purposes.

Fleetrade State Vehicle Commute Use. Under D 53-51, WSDOT Vehicle Commuter Ridesharing (Fleetrade), employees participating in the fleetrade program as a unit coordinator (driver) or as an assistant unit coordinator (alternate driver) are required to maintain vehicle liability insurance. This insurance must provide liability coverage for driving of a non-owned (WSDOT owned) vehicle for commute purposes, and it must provide coverage for injury and property damage to others with limits of \$100,000/ \$300,000/\$100,000 or a combined single limit of \$300,000. Employees are responsible to ensure their liability coverage acquired applies when using the non-owned vehicle for commute purposes. The Transportation Equipment Fund covers collision or comprehensive damages to the fleetrade vehicle itself. However, damages to the state vehicle resulting from either employee gross negligence or unauthorized uses are subject to recovery from the employee by the Risk Management Office.

Assessing Needs in General

Prior to entering into any contracts or agreements with others, WSDOT employees must ensure that these documents include appropriate indemnification/hold harmless language and liability insurance requirements so that WSDOT does not unnecessarily assume the liability risks of others. An Assistant Attorney General in the AG/Transportation and Public Construction Division should review all such documents. Indemnification/hold harmless contract provisions are an accepted means of transferring WSDOT risk to the appropriate performing entity. Further, OFM/RMD provides hold harmless, indemnification and insurance guidance relative to contracts/agreements in their publication “Contracts: Transferring and Financing Risk”, available at the following Internet site:

(<http://www.ofm.wa.gov/rmd/contrman.htm/riskcont.doc>.)

The majority of WSDOT’s liability and/or facility damage risk exposures result from its highway construction projects. As briefly discussed in Chapter 6 of this manual, **liability insurance requirements** for construction contracts are addressed in the 2002 Standard Specifications for Road, Bridge, and Municipal Construction, section 1-07.18. The contractor must provide liability insurance coverages consistent with those standard specifications, or other General Special Provisions referenced in the Chapter 6 discussion section indicated above.

Whenever construction activity (highways or buildings) puts WSDOT facilities (bridges, buildings, etc.) at significant risk for damage during construction, consideration should be given to requiring the contractor to provide **builders risk insurance** coverage under GSP 07186.GR1 in the WSDOT Standard Specifications. When renting properties or equipment to others or from others, considerations must be given to transferring the liability and property damage risk exposures through properly executed hold harmless/indemnification provisions and the financing of those exposures with liability or property damage insurance as applicable.

For any questions or issues with insurance needs or indemnification/hold harmless considerations, contact the WSDOT Risk Manager.

Purpose

This chapter provides guidance for establishing damage repair work orders to capture repair costs and for completing repair cost estimates to allow the recovery of costs for damages to WSDOT property. Guidance is also provided on additional reporting requirements for intentional damage, vandalism and theft incidents.

Rules

WSDOT institutes timely action to recover the costs of damages to WSDOT property or as the result of incidents on departmental property through:

- A. Close liaison with municipal, county, and state law enforcement agencies to identify persons liable for damages.
- B. Prompt preparation of detailed repair cost estimates and establishment of damage repair work orders (Kx) or construction project work order reimbursable groups when preliminary estimate of damage repair is equal to or more than \$700. If damages are less than \$700 and the damaging party is known, simplified recovery procedures should be used to hold down the cost of recovery.
- C. Prompt notifications to the billing office when a repair cost estimate needs revision due to under or over stated estimated repair costs, followed by prompt submittal of the revised estimate.
- D. Prompt billing of adverse parties based on detailed repair cost estimates when liability and identity of the party causing the damage is clearly established.
- E. Persistent follow-up action when necessary to effect collection, application of the Financial Responsibility Law (Chapter 46.29, RCW) when appropriate, or referral to contracted collection agencies when appropriate.
- F. The responsibility for implementation of these procedures for smaller modes and divisions shall fall to the regions in which they reside; e.g. Aviation Division/Northwest Region, WSDOT Headquarters/Olympic Region, etc.

Referencing Damages to DOT Properties/Facilities References

- 1. RCW Chap 46.29 (Financial Responsibility)
- 2. RCW 46.44.110 (Liability for Damage to Highways, Bridges, etc.)
- 3. OTEF Operating Rules Manual;

4. E 1026.00 (Loss of Public Funds or Property Notification Requirements)
M 13-02 (Chart of Accounts), M 13-03 (TRAINS User Manual), M 13-05
(TRAINS A/R User Manual), M 13-82 (Accounting Manual), M 41-01
(Construction Manual), and M41-10 (Standard Specifications for Road, Bridge
and Municipal Construction)

Procedures

Action by

Action

A. When Damage to Highway Property Occurs Outside a Construction Zone

Region Maintenance Area Office

1. Receives information concerning damage to highway property (via observation, phone or radio call, Police Traffic Collision Report, etc.). If within a construction zone, forwards information to applicable project office. Otherwise, proceeds as below.
2. If estimated damage repairs appear to be in excess of \$700, promptly (within 20 workdays of damage discovery whenever possible) prepares a damage repair estimate using maintenance's latest version automated Excel "K" job "DOT Repair Cost Distribution Estimate" worksheet (see Figure 8a). Prompt reporting allows filing financial responsibility documents with the Department of Licensing (DOL) to provide license suspension collection leverage against damaging parties. If damages are less than \$700 see procedure C.
3. Base material estimates on replacement with like materials. Where used materials are utilized, cost at 50% of new replacement cost, and after the material description for this item, indicate "**(used material valued at 50% of new)**". If like material cannot be obtained due to obsolescence, unavailability or facility upgrade, base replacement cost on actual cost and in relation to the percentage of the facility damaged; e.g. an entire bridge rail is being replaced to meet current standards even though only 30% was damaged, so estimate should be for 30% of the entire replacement material cost. **Provide an explanation of methodology used for materials with the Repair Cost Distribution Estimate documentation.** Additionally, whenever other

materials are used for repairs that are not charged to the work order through the inventory/accounting systems process, after the material description for this item on the repair cost estimate enter “**(not charged to work order)**”. In order for these materials (used or non-inventoried) to be printed on the automated repair cost estimate, they may need to be added to the Maintenance Area’s Labor, Equipment, Materials List database, or they may be hand entered onto the repair estimate.

4. Forward the original and three copies of the completed DOT Repair Cost Distribution Estimate and Police Traffic Collision Report (if available) to the Region Financial Services Office.
5. Advises Region Financial Services Office (by e-mail or memo) when work order repair is completed.
6. Review completed repair cost estimate package. Where known party is identified for damages over \$700, determines a reimbursable work order (Kx) has been established (see Figure 8c for coding). Enters the estimate as the authorized dollars in the work order. If the responsible party is unknown, the authorized dollars are entered using the state appropriation. If the responsible party becomes known, change the appropriation to local. Close unknown work orders after 180 days. Forward known repair cost estimate package(s) under cover letter to the RMO.
7. Receives completed DOT Repair Cost Distribution Estimate or other cost estimate documents. Bills adverse party within 30 days, using invoice documents (or letter) provided by the TRAINS Accounts Receivable Subsystem. Includes necessary notification in the letter/invoice that the debt may be turned over to collection after 30 days, and the following on the invoice (RE) document:
 - Work Order and Group,

**Region Financial
Services**

**Risk Management
Office**

- Fund 108,
 - Agency 405,
 - Revenue Source 059701, or 042701 for building damage, and,
 - Org Code (Kx work order responsible org.)
8. When applicable, files 'Department of Licensing Accident Report Filing', with the DOL/Driver Responsibility.
 9. If necessary, with adverse party complete 'Agreement for Payment of Damage Claim' (when less than 180 days from accident date or 'Promissory Note' (when more than 180 days from accident date) and time payment schedule. When necessary, provides copies to DOL/ Driver Responsibility.
 10. If adverse party fails to respond in any manner to the billing action within 30 days, turn the file over to the collection agency within 15 days.
 11. If settlement arrangements cannot be completed for damages of \$25,000 or more, consider sending the completed claim file to the Department's AG Chief Counsel with request for their possible litigation to effect claim collection. Coordinate this action in advance with the Maintenance and Operations Programs Financial Manager, as that office provides the fund allocation to the AG for M2 program legal work. Otherwise, send file to collection agency where that agency's fees and costs can be added to the debt. If less than \$25,000, go to Step B.
 12. Initiate litigation or determine account to be uncollectible from the adverse party, and advise the RMO if restitution will be made or if account is determined uncollectible. AG charges for recovery effort should be charged to their WSDOT budget program allocation for legal work in the applicable program benefiting.

**WSDOT Chief
Counsel**

**Risk Management
Office**

13. When payment is received, input cash receipt (CR) transaction into TRAINS as partial or full payment, as applicable.
14. Quarterly (or at least semi-annually) review the TRAINS PUNR Table and select those receivables with collection efforts exhausted or meeting other Office of Financial Management (OFM) write-off criteria and flag them for write-off. At the same time, review files with collection agency(s). Files assigned to a collection agency for more than one year without any monetary recovery results or not in a legal action status should be followed up to the agency and called back for write-off when applicable. Document follow-up activity in the file. After review and selection of write-offs, have an RAM6501-B report run for RMO approval, and forward it to the Chief, Accounting Services Office for approval. For any write-offs of \$15,000 or more, also obtain WSDOT Chief Counsel approval under separate cover letter.

**WSDOT Chief
Counsel**

15. When applicable, review and approve write-off item(s) and return to RMO.

**Accounting Services
Office**

16. The Chief reviews and approves the write-off request. Return original signed packet to the RMO, and forward a copy to the Financial Systems Branch, which does the second approval on the TRAINS PUNR Table and forwards the packet to the Billings and Receivables Section. This section files with the final write-off report (ARWO) and distributes each Region's portion(s) of the ARWO (by applicable bill code) to Region Financial Services for their approved write-offs.

**Region Financial
Services**

17. Close the group (GRUP) table when notified by the Area Maintenance Office that the work order is complete.

18. Balance the authorized amount to the expended amount and close the Work Order (WORD) Table (if a billing was created). Use the ARWO for balancing written off receivables.

B. When Damage to Highway Property Occurs Inside a Construction Zone

**Region Project
Engineer Office**

1. Establish procedures to ensure frequent reviews for third party damages are made and documented. Determine:
 - a. If the contractor is not relieved from responsibility for work under Standard Specifications 1-07.13(1), (2) or (3), then direct the contractor to do the repair work at contractor expense and disregard the remaining steps in this procedure.
 - b. If the contractor's/subcontractor's equipment is damaged, advise them it is their responsibility to effect recovery for such damages (*except if a Truck Mounted Impact Attenuator covered under General Special Provision 10053.GR1, proceed to Step 2*). Disregard remaining steps.
 - c. If damages occur after physical completion, then provide damage information to the Area Maintenance Office for their repair and actions under Procedure A above. Note: This may require further coordination between the two offices if it is desired to have the Contractor do the repair using maintenance funds. Disregard remaining steps.
 - d. If the contractor is relieved from responsibility for the work under the Standard Specifications 1-07.13(1), (2) or (3), or if it is otherwise advantageous for WSDOT to assume financial responsibility for the repair, proceed to Step 2.
2. Determine damage extent and document the estimated repair cost (to include labor, materials and equipment) and related project engineering costs. If the damaging third party is unknown, the contract must absorb the repair costs in a

state-funded third party damage group. If the damaging party is known and the repair estimate is \$700 or more, obtain Police Traffic Collision Report and/or prepare witness list when applicable. If party is known and damage is less than \$700, go to procedure C. Determine:

- a. **Repair by State Forces and/or Incident Response.** Provide maintenance/incident response the state force group for charging to the contract for third party damage repair.
 - b. **Repair by the Contractor.** Direct the Contractor to perform the repair. If the contract has the standard bid item “Reimbursement for Third Party Damage” set up, proceed to Step 4. If it’s not set up, proceed to Step 3.
3. Prepare change order to contract to add standard bid item “Reimbursement for Third Party Damage” per Construction Manual M 41-01, paragraph 1-3.1b(8) and to establish a reimbursable group. Under the Contractor Automated Payment System (CAPS), each control section has its own reimbursable group (see Figure 8c for coding). This allows payment to the Contractor using ledger entries in CAPS, and multiple incidents within a control section have the same reimbursable group but each incident has a unique ledger entry. Notify the Regional Program Manager that the reimbursable group must be set-up and to verify fund availability. Forward the approved change order to the Accounting Services Contract Payment Unit. Proceed to Step 8 below.
 4. Using the reimbursable group set up with the control section where the incident occurred, pay the Contractor using ledger entries in CAPS (use a separate ledger entry for each incident within the control section). Billing invoice numbers by the Risk Management Office will use the bid item number (3 digits) and ledger entry number 6 (digits) as its last 9 digits. This number, contract number and group will tie CAPS and TRAINS to the specific incident in the construction zone. Proceed to Step 8 below.

Accounting Services

Contract Payment Unit

5. Receive project change order and notify the Work Order Unit to set up the reimbursable group for damage recovery.

Accounting Services

Work Order Unit

6. Set up a reimbursable group in the work order in accordance with figure 8c, and notify the Accounting Services Contract Payment Unit that the reimbursable group is established.

Accounting Services

Contract Payment Unit

7. Upon receipt of notice, set up a reimbursable group in CAPS, and advise the Region Project Engineer.

Region Project Engineer

8. Prepare a cover memo (see figure 8b), which indicates the known party or specifies unknown, the contract number, reimbursable group, bid item number and ledger entry number. It must also summarize the total repair related costs to be recovered (contract and state forces engineering costs).
9. Promptly forward original and one copy of the memo, cost estimates, project change order or field note record, police traffic collision report, witness list, proper work order coding, etc. to the Region Financial Services Office.

Region Financial

Services

10. Review documentation provided by Region Project Engineer for accuracy and completeness. Forward original package to the RMO and retain office copy.

Risk Management

Office

11. Bill the known responsible party for the estimated repair costs and include the following on the invoice (RE) document:
 - Invoice Number (bid item no. plus ledger entry no.),
 - Work Order and Group,
 - Agency 405,
 - Revenue Source 059701 (or other appropriate sub source), and
 - Organization Code (shown in the work order)

12. Proceed to Procedure A, Steps 8 through 18, as applicable.

C. When Damages to Highway Property are Less Than \$700 and Adverse Party is Known

**Region Maintenance
Areas/Project
Engineer Offices/
Financial Services Offices**

1. Region Financial Services should coordinate and establish within their region the methodology for handling the repair estimate and repair work order process with the intent of minimizing resource use/costs for these recovery efforts. It is suggested that the procedures used when damages are estimated at less than \$700 be the same whether the damage is within or outside a construction zone. For example, in either case maintenance will effect the repairs, use the Kx work order process, and minimize the effort in doing the repair estimate.
2. Provide repair cost estimates directly to the RMO in Olympia to the attention of the Office Support Supervisor.

Risk Management Office

3. Office Support Supervisor receives repair estimate, evaluates liability, and establishes an abbreviated receivable (RE) in TRAINS. Includes necessary notification in the letter/invoice that the debt may be turned over to collection after 30 days.
4. If adverse party fails to respond in any manner to the billing action within 30 days, turn the file over to the collection agency after 15 days.
5. Follow Procedure A, steps 13 through 18 as applicable.

D. When Damage to Washington State Ferry (WSF) Property Occurs

Dock Agent/Chief Mate

1. Prepare an accident/damage report for damaged property (terminals, docks, equipment, etc.) and forward to the WSF Safety Office.
2. Initiate work order for repair work and forward it to the Eagle Harbor Maintenance Division.

- | | |
|--|--|
| | 3. Receive work order for repair work and prepare DOT Repair Cost Estimate (Figure 8a) or similar document. Forward the cost estimate to the RMO in Olympia. |
| WSF Safety Office | 4. Receive accident/incident report, process data into WSF Claims Data Base and forward report to the RMO in Olympia. |
| Risk Management Office | 5. Receive accident/incident report and if adverse party is identified, ensure receipt of Repair Cost Estimate or similar document from Eagle Harbor Maintenance Division. Prepare an indemnification claim and billing. (Forward billing to adverse party and provide copy of both documents back to the WSF Finance Office). |
| | 6. Proceed with Procedure A, Steps 10 through 15 (excluding 13) as applicable. |
| | 7. Receive funds from adverse party and record satisfaction of indemnification claim. Forward funds and copy of the bill to WSF Division/ Finance Office for receipt processing. |
| WSF Division/Finance Office (Cashier) | 8. Process funds received from RMO as expenditure recovery against original work order expenditures affecting the repair. |

E. When Damage to WSDOT Vehicles Occurs and Repairs Are Made
This procedure and procedure F are currently under review for revision and will be republished as soon as possible.

- | | |
|----------------------------|--|
| Employee/Supervisor | 1. Employee completes SF 137 to describe incident and supervisor reviews for adequacy.
Supervisor also determines if damage to the state vehicle (including fleetride) was the result of employee unauthorized use of the vehicle and if damage recovery from the employee is appropriate (consult with the Risk Management Office when necessary). Process SF 137 as in Chapter 5, procedure B. |
| Region Shop | 2. Receive accident information (normally form SF 137) from WSDOT driver/supervisor and determine if third party damage applies (consult with Risk Management Office when necessary). |

Where special or non-Transportation Equipment Fund (TEF) equipment is damaged in addition to the TEF vehicle, contact the Risk Management Office for further instructions. Advise Region Financial Services Office to establish Hx work order.

3. Obtain two outside repair estimates or one outside and an in-house estimate when using outside repair, or provide one in-house estimate for actual in-house repair. Labor charges associated with collection of estimates are assumed in the indirect cost rate to be applied and should not be separately charged.

A shop service order is prepared for each incident to include: the lowest estimate bid plus labor; towing; and any other miscellaneous charges (either actual or estimated). Attach the two repair estimates for outside repair or the one in-house estimate for in-house repair to the shop service order as backup and forward to the Region Financial Services Office.

Notify the Region Financial Services Office when work is completed.

4. Establish Hx Work Order in accordance with the TRAINS User Manual, Section III, and Figure 8d. Receive estimate package from Region Shop, totals all charges on the shop service order and adds indirect cost rate (M 13-82, Section 4-10) on all charges with the exception of in-house labor. In-house labor will be billed in accordance with the rates shown in the current RAP 2460, Cost Distribution Rates (or RAP 2470 for temporary employees). Use estimate total amount as authorized dollars for the Work Order.
5. Forward all documentation (shop service order, repair estimate(s), accident reports, towing bills and any other pertinent invoices or correspondence available) to the Risk Management Office. Retain copy of all documents until work order is closed.

- | | |
|----------------------------------|---|
| Risk Management Office | 6. If available, match form SF 137 (received per Chapter 5 this manual) with the Hx Work Order package. Bill responsible party/insurance company (with cc to Region Financial Services), include necessary notification in the letter/invoice that the debt may be turned over to collection after 30 days, and include the following on the invoice (RE) document: <ul style="list-style-type: none">• Hx Work Order and Group,• Fund 410,• Agency 405,• Revenue Source 0420 90,• Organization Code 4x5601, and• Activity E101. |
| Region Financial Services | 7. Receive billing document copy and file with applicable Hx Work Order. |
| Risk Management Office | 8. Input cash receipt (CR) transaction when payment is received into TRAINS as partial or full payment, as applicable. |
| | 9. File 'Department of Licensing Accident Report Filing', when applicable, with the DOL/ Driver Service/Accident Processing. |
| | 10. If necessary, with adverse party complete 'Agreement for Payment of Damage Claim' (when less than 180 days from accident date or when DOL has initiated action by form letter after 180 days), or PN, 'Promissory Note' (when more than 180 days from accident date), and time payment schedule, and provide copies to the DOL/ Driver Service/Accident Processing. |
| | 11. If adverse party fails to respond in any manner to the billing action within 30 days, turn the file over to the collection agency within 15 days. |
| | 12. When applicable, apply write-off steps Procedure A, Steps 14 through 16. |
| Region Financial Service | 13. Close the group (GRUP) table when notified by the Region Shop that the work order is complete. Balance the authorized amount to the expended amount and close the Work Order (WORD) Table (if a billing was created). |

F. Added Steps for WSDOT Vehicles Declared a Total Loss.

- | | |
|--|--|
| Risk Management Office | 14. When vehicle is declared a total loss and recovery is based on blue book or fair market value, notify the Region Financial Services Office that the equipment is being totaled and the amount of the settlement value. If an RE document has been prepared under Procedure D, Step 5, the RE must be modified to reflect the settlement value. |
| Region Financial Services | 15. Receive notification vehicle has been totaled, prepare SF 267A, and forward signed copies to the Equipment Manager. |
| Headquarters (HQ)
Equipment Manager | 16. Receive SF 267a, and: <ul style="list-style-type: none"> • Assign GL number to SF 267a, • Move asset into "sale" status in the Fleet and Equipment Management system (FEMS), • Forward signed title to Risk Management, and • Forward signed copy of SF 267A to file |
| Risk Management Office | 17. Receive equipment title and forward to insurance company's identified contact person for coordination and pick up of salvaged vehicle. Forward OSC Equipment Manager a copy of completed CR document for salvage value when settlement is complete. |
| HQ Equipment Manager | 18. Receive completed CR documents(s) and update FEMS changing the unit status from "sale" to "sold".

19. Forward copy of the JV and any other Supporting documentation to the Region Financial Services. |
| Region Financial Services
or Risk Management Office | 20. If money is received after the work order is closed and written off, see procedures (When Payment is Received on Written-Off Accounts) in M 13-05. |

G. Procedures Following Intentional Damage, Vandalism, Theft Incidents

- | | |
|--|---|
| Employee/Office Having
Property Oversight | 1. Occurrences identified above must be handled as follows: |
|--|---|

- a. **Theft** - Any suspected or known loss of public funds or assets must be reported to the WSDOT Audit Office as soon as discovered and procedures in WSDOT Executive Order E 1026.00 must be followed. For a loss within a Region, advise Region Financial Services of the loss and coordinate with that office on staying in contact with local law enforcement and/or prosecutor's office concerning recovery of the value of the loss and receipt of such funds. Losses at other locations: property oversight should be coordinated with their applicable accounting office. Also, if the loss results from employee infidelity, report the loss to the RMO for their further reporting to the State's insurer for such losses. If the loss involves computer equipment, report it to the MIS Finance and Administrative Services Manager for reporting to the RMO for their further reporting to the State's insurers for such losses.
- b. **Intentional Damage/Vandalism to Buildings** - Report the incident to local law enforcement and to the WSDOT Audit Office under E 1026.00. Additionally, follow procedure A above and Figure 8c (Section II) for the Kx work order process.
- c. **Intentional Damage/Vandalism to Equipment** - Report the incident to local law enforcement and to the WSDOT Audit Office under E 1026.00. Additionally, if the equipment is a:
 - TEF vehicle, follow Procedure D above and Figure 8d for the Hx work order process.
 - Non-vehicle TEF or other non-TEF \ equipment item and the damages are within a Region, advise Region Financial Services of the loss and coordinate with that office on staying in contact with local law enforcement and/or prosecutor's office concerning

recovery of the value of the damages and receipt of such funds. Losses at other locations should be coordinated with their applicable accounting office.

**Employee/Office Having
Property Oversight**

- Information Technology (IT) TEF inventoried computer item: advise the IT Financial Manager of the damages and coordinate with that office on staying in contact with local law enforcement and/or prosecutor's office concerning recovery of the value of the damages and receipt of such funds. The IT Financial Manager must report such damages to the RMO for their further reporting to the State's insurers for such damages and possible insurance recovery.

Figures

- 8a. Dot Repair Cost Distribution Estimate0
- 8b. Cover Memo
- 8c. Construction Work Order Coding

Figure 8a
DOT Repair Cost Distribution Estimate



Washington State
Department of Transportation

REPAIR COST ESTIMATE

LOCATION OF DAMAGED PROPERTY:		COUNTY	DAMAGE CODE	
DATE DAMAGE OCCURRED OR OBSERVED:		DESCRIPTION OF DAMAGE:		
NAME AND ADDRESS OF OWNER:		NAME AND ADDRESS OF DRIVER:		
YEAR, MAKE, TYPE OF VEHICLE:		LICENSE NO.	POLICE DIV.	BADGE NO.
REPAIR COST DISTRIBUTION ESTIMATE				
LABOR DESCRIPTION	QTY	REG. HOURS	O/T HOURS	AMOUNT
TOTAL LABOR ESTIMATE				\$0.00
EQUIPMENT TYPE	QTY	OP. HRS.	ASSG. HRS.	AMOUNT
TOTAL EQUIPMENT ESTIMATE				\$0.00
MATERIAL TYPE	QUANTITY		AMOUNT	
TOTAL MATERIAL ESTIMATE			\$0.00	
MISCELLANEOUS CHARGES - DESCRIPTION	QUANTITY		AMOUNT	
TOTAL MISCELLANEOUS ESTIMATE			\$0.00	
TOTAL DIRECT CHARGES			\$0.00	
MAINT. AREA LOCATION:	UNIT ORG CODE:	CONT. SECTION:	JOB NO.	
SUBMITTED BY:	DATE:	TITLE:		
APPROVED BY:	DATE:	TITLE:		

**Figure 8b
Cover Memo**

July 1, 2003

TO: Risk Management Office/MS 47418

THRU: (Region Accounting Office)

FROM: John Doe

SUBJECT: Third Party Highway Construction Zone

Damages have occurred in the construction zone for Contract No. _____ on SR _____ at MP _____ on ____/____/2000. The incident was witnessed by the following:

1. Jim Jones, Project Inspector, 425-999-9999
2. Jane Doe, Traffic Supervisor, 425-999-1000

I have attached our cost estimate, a copy of the project change order or field note record as appropriate, the Police Traffic Collision Report, a supplementary witness list, detail cost estimate data, and the proper work order coding as applicable.

The estimated repair costs are summarized as follows:

Labor Costs	\$ _____
Equipment Costs	_____
Material Costs	_____
Project Office Engineering Costs	_____
Total Costs	\$ _____

The reimbursable group to be used for the recovery is _____.

Attachments

cc: John Smith

Figure 8c
Kx & Construction Work Order Coding

Section I**Highway Damage - Kx Work Order (Damages Outside Construction Zones)**

Work Order Fields	Maintenance Known Party Coding	Maintenance Unknown Party Coding	Incident Response Known/Unknown
Group	01	01	02
Fund	108	108	108
Program	M2	M2	Q2
Provider	CLAIMS (Note 1)	N/A	CLAIMS (Note 1 & 2)
Group Category	04	04	04
Appropriation	Local (510)	State (030)	State (050)
Finance Code	DA	AA	AA
Control Section	(Note 3)	(Note 3)	N/A
Activity	09 (Note 4)	09 (Note 4)	09 (Note 4)
PIN	N/A	N/A	N/A

Section II**Building Damage
(Kx Work Order)**

Group	01
Fund	243
Program	See Section IV
Provider	CLAIMS (Note 1)
Group Category	04
Appropriation	State (Note 2)
Finance Code	AA
Control Section	(Note 5)
Activity	02 (Note 4)
PIN	(Note 7)

Section III**Highway Damage - Contract
Work Order (Damages Within
Construction Zone)**

Group	next available
Fund	primary on W/O
Program	primary on W/O
Provider	CLAIMS (Note 1)
Group Category	01
Appropriation	Local (Notes 2 & 8)
Finance Code	DA (Note 8)
Control Section	(Note 6)
Activity	04 (Note 4)
PIN	(Note 7)

Notes:

1. If another governmental entity, agency or fund, use the appropriate TRAINS provider code
2. Refer to the Chart of Accounts for local and state appropriations.
3. Use the appropriate maintenance control section.
4. Use this code unless otherwise provided in changed work order setup instructions.
5. Use the appropriate building control section.
6. Use the appropriate highway control section.

7. PIN and WIN must be added to CPMS before input into TRAINS.
8. Use the appropriate local appropriation and this finance code unless under \$300 and not to be reimbursed. In that instance, use state appropriation and finance code AA.
9. Set up provider only if responsible party is known.

Section IV

Building Damage Responsibilities (Vandalism, Vehicular Damage, etc.)

The Department has established funding sources and operating responsibility for the various types of facilities as follows:

Type 1 Right of Way (Permanent) — Land and buildings which fall within the right of way lines that delineate the state's highway system. The lands and buildings are part of the state's highway system.

Type 2 Right of Way (Interim) — Sites and buildings that fall outside the necessary right of way lines but were required to be purchased as a part of a highway construction project. These facilities are not generally required for the operation of the state's highway system, but due to present or future need or potential impact during construction they cannot yet be sold.

Type 3 Capital Facilities — Sites and buildings that fall outside (and, in some instances for buildings only, inside) of the necessary right of way lines and were not required to be purchased as a part of a highway construction project. These facilities are utilized in support of the Department's transportation system.

Type 4 Other Modal Facilities — Sites and buildings (other than Type 3 above), which were purchased in support of the operation of state transportation systems.

Type 5 Leased Facilities — Sites and/or buildings leased by the Department.

Contact the appropriate Capital Facility Planner for further information.

Purpose

This Chapter provides WSDOT employees with the requirements and procedures to meet the Office of Financial Management (OFM) reporting guidelines established for agencies based on ESSB 6428, passed in the 2002 legislative session.

Rules

A. OFM Reporting Requirements

1. OFM requires a state agency to notify the Director of OFM when an agency becomes aware of a death, serious injury, or other substantial loss that is alleged, or suspected to be caused, at least in part, by the action of the state agency. These reported incidents may be subject to review by a Loss Prevention Review Team as appointed by OFM.
2. OFM reporting criteria for WSDOT include the reporting of:
 - a. Any traffic accidents involving two or more fatalities.
 - b. Any serious injury accident involving a WSDOT employee (e.g. employee fatality, life threatening or disabling injury).
 - c. Any matter in which the Secretary believes the loss to the agency could exceed \$2 million.
 - d. Any significant loss for which the Secretary believes there is a discernible probability that a similar incident will reoccur when the incident was alleged or suspected to be caused, at least in part, by the action or omission of the state agency.

B. WSDOT Reporting Process

1. Headquarters/Region/Division Safety Officers and Traffic Engineers are responsible for identifying incidents that may meet the above criteria, and reporting them to the WSDOT Risk Manager. These incidents should be reported by telephone to the Risk Manager at 360-704-6363 as soon as they become known.
2. The Risk Manager will confer with the Assistant Secretary for Finance and Administration regarding whether specific incidents meet the OFM reporting criteria prior to reporting the incident. This may require further discussion with the State's Risk Management coordinator at OFM to obtain that office's recommendation as to whether or not an incident specifically meets the intended reporting criteria.

3. The Secretary has delegated authority to the Assistant Secretary for Finance and Administration for making final determinations as to which incidents are to be reported, and for reporting the incidents to the Director of OFM.
4. Incident reporting to OFM will be done in a format provided in Appendix A. This form is available at the WSDOT Risk Management Website at:

<http://wwwi.wsdot.wa.gov/fasc/RiskManagement/OFM%20Incident%20Report.htm>.

References

This chapter supplements the following documents:

- ESSB 6428
- OFM Memorandum dated June 17, 2002, subject: LOSS PREVENTION REVIEW GUIDELINES

Figure 9a

Format for Reporting Loss Incidents

AGENCY NAME:

NAME OF PERSON MAKING REPORT:

DATE OF INCIDENT OR LOSS:

NAME OF PERSON, DESCRIPTION OF INCIDENT OR LOSS:

AGENCY CONTACT PERSON:

HAS THE AGENCY CONVENED AN INTERNAL REVIEW PROCESS? IF YES,
PROVIDE INFORMATION ON THE STATUS OF THE REVIEW:

Definitions

1. **Accident** - An unexpected and undesirable happening, sometimes resulting from negligence, that results in injury, loss or damage.
2. **Accidental Non-Vehicle Claim/Incident** - Categorized as General Liability and normally arises out of maintenance operations, design, etc. Typical examples include: chuck hole, herbicide over spray, paint over spray, missing signs, design defect failure to do something which should have or should not have been done, improper ferry ramp elevation and ferry crew/dock attendant misdirection.
3. **Accidental Vehicle Damage** - Includes, but not limited to: collision with another object or vehicle, chuck hole, falling object, wind, fire, theft, or glass breakage. Always involves a WSDOT vehicle or a WSDOT employee's use of another vehicle while on official state business.
4. **Adverse Party (aka, third party or responsible party)** - Individual(s), firm(s) or agency(ies) determined to be liable for damages to departmental property, or sometimes also referred to out of context as claimant who is making a claim against the Department for their damages.
5. **Claimant (aka third party)** - A damaged party asserting a claim against WSDOT, or sometimes referred to out of context as adverse party.
6. **Cure** - Care, including nursing and medical attention, given to maritime employees injured or falling ill while in service of the vessel, during such period as the duty continues.
7. **Damages** - Including but not limited to: harm to property, bodily injury, wage loss, and loss of vehicle use.
8. **DOT Repair Cost Distribution Estimate** - A form used to document repair/replacement cost and to support the billing to an adverse party. Region maintenance offices utilize an automated Excel version of the form shown in Figure 8a.
9. **OFM/RMD** - Office of Financial Management/Risk Management Division.
10. **Incident** - An occurrence or happening that may give rise to a tort claim.

- 11. Loss Exposure** - The possibility that a loss will occur. May involve a loss to state property, a vehicle accident, damage to the property of someone outside the organization, an injury to a member of the public or an employee, a contractual exposure, or the cost to defend a lawsuit. A major factor in evaluating the severity of an exposure is the potential cost to the Department.
- 12. Maintenance** - Food and lodging stipend given to maritime employees injured or falling ill while in service of the vessel.
- 13. Uncollectible** - An account receivable that has been invoiced and is determined to be partially or totally uncollectible from the billed adverse party for any of several reasons (e.g. compromised due to questionable liability or comparative fault, bankruptcy, unable to locate, not cost effective to pursue, etc.).
- 14. Property** - All departmental assets, generally broken into three categories:
 - Highway:** All other departmental non-TEF vehicle and non-vehicle equipment or highway appurtenances and facilities located on state-owned right of way or plant sites. Examples include, but not limited to: illumination standards, fences, guardrails, signs, special lighting units, other traffic control devices, aesthetic improvements, rest area facilities maintenance and engineering buildings, sites and appurtenances; and bridges, other highway structures and facilities.
 - TEF:** All TEF vehicle and non-vehicle equipment.
 - WSF:** All property of the Washington State Ferries Division including, but not limited to: vessels, terminals, toll booths, docks, quays or other facilities, as well as any equipment therein.
- 15. Risk** - Uncertainty arising from the possible occurrence of given events.
- 16. Risk Control** - Any risk management technique that seeks to reduce the probability of a loss and to eliminate or reduce the severity of those losses that do occur.
- 17. RMO** - Risk Management Office for the Washington State Department of Transportation.

- 18. Risk Management Philosophy** - Thoughtful or conscientious activity to minimize the adverse effects of loss on the organization by recognizing individual, multiple and often complex risk exposures and developing or implementing innovative loss control methods or programs in light of those risks.
- 19. Tort** -A wrongful act which causes injury or damage to a person or a person's property for which a civil action can be brought for a monetary recovery of damage under Chapter 4.92, RCW. Examples, including but not limited to, are: state vehicle collision accidents, highway defects, design defects, failure to maintain, acts of commission or omission, defective signing, drainage failures, improper vessel ramp elevation and crew misdirection.
- 20. Vehicle** - Motor vehicle used for land transportation.
- 21. WSDOT** - Washington State Department of Transportation.

